THE MADRAS LEGISLATIVE COUNCIL.

Tuesday, the 6th May 1952.

The House met in the Council Chamber, Fort St. George, at eleven of the clock, Temporary Chairman (THE HON. SRI V. BASHYAM AYYANGAR[a]) in the Chair.

[*Note.*—**An asterisk (*) at the commencement of a speech indicates revision by the Member.**]

I.—ADJOURNMENT MOTION *RE* PROMULGATION OF AN ORDER UNDER SECTION 144, CR.C.P. IN THE CITY OF MADRAS WITH SPECIAL REFERENCE TO LEGISLATURE PARTIES AND MEMBERS OF THE HOUSE.

TEMPORARY CHAIRMAN (THE HON. SRI V. BASHYAM AYYANGAR) :—" I have just now received notice of an adjournment motion from Sri S. B. Adityan proposing the adjournment of the business of the House. I have been appointed Chairman for a specific purpose, namely, to conduct the election of the Chairman So, this motion will be taken up after the Chairman is elected. Now we shall proceed with the business of the House."

* SRI S. B. ADITYAN :—" On a point of order, Sir, I propose to ask for leave of the House to-day for making a motion for the adjournment of the business of the House to discuse a definite matter or urgent public importance, viz., the promulgation of an order under section 144, Cr.P.C., in Madras City, before the commencement of the business of the House for the day. Rule 43 of the Madras Council Rules says—

> **'A member desirous of moving a motion for an adjournment of the business of the House for the purpose of discussing a definite matter of urgent public importance shall, before the commencement of the sitting of the Council at which he proposes to ask for leave of the House to make his motion, hand to the Chairman a written statement of the matter proposed to be discussed and obtain his consent to his asking for such leave to make the motion.'**

" Now I come to rule 44. Rule 44 says—

> **' After receiving such consent, leave of the Council to make the motion may be asked for after questions and before the list of business for the day is entered upon.'**

Sir, in the list of business for the day is mentioned the Election of Chairman. Before we take action regarding the Election of Chairman, viz., before entering upon the business for the day, I am making the motion.

" To the point whether the Chairman is only appointed for a specific purpose, I shall refer the House to Article 184 of the Constitution, under which he has been appointed to perform the duties. Article 184 (1) says—

> **' While the office of Chairman is vacant, the duties of the office shall be performed by the Deputy Chairman or, if the office of Deputy Chairman is also vacant, by such member of the Council as the Governor may appoint for the purpose.'**

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[a] Dr. P. V. Cherian who had been appointed Temporary Chairman resigned on the 5th May 1952 as he was one of the candidates seeking election as Chairman. Sri V. Bashyam Ayyangar was appointed Temporary Chairman in his place.

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So, the Chairman can perform all the duties. If a Chairman is appointed only for a specific purpose, it would be wrong. It is beyond the powers of the Governor to appoint a Member of the Council for a limited purpose. It is not in the power of the Governor to whittle down the powers of the Chairman. Once he is appointed, he is vested with full powers. Therefore, I am quite sure that the Chairman has been appointed to perform all the duties of the Chairman and not any particular duty and in fact if he were appointed to perform only a particular duty it would be contrary to the provisions of the Constitution. It has been the practice of the House to disallow an adjournment motion only on three grounds, first that it is not a definite matter—if it is a vague or general matter the Chairman can disallow it; secondly that it is not a matter of urgent importance and thirdly that it is not a matter of public importance. The object of this motion is mentioned in my adjournment motion, that is, the promulgation of an order under section 144, Cr.P.C., in the City of Madras, with special reference to certain Legislature Parties and Members of this House. It is a matter of public importance and it is an urgent matter. It has got to be discussed to-day. An order under section 144, Cr.P.C., has been promulgated prohibiting the Members legally elected by the public from assembling. I ask, how can the Members of the House be prevented from gathering together and going to the Assembly Hall in a body."

SRI K. BALASUBRAMANYA AYYAR :—" On a point of order, Sir."

SRI S. B. ADITYAN :—" I am myself raising a point of order, viz., the adjournment motion, and there can be no point of order on the adjournment motion. Sir, it is an urgent matter."

TEMPORARY CHAIRMAN :—" Has the hon. Member got any objection to move his motion after the election of the Chairman? "

SRI S. B. ADITYAN :—" We must follow the rules framed for this purpose. According to rule 44, this motion should be moved before the list of business for the day is entered upon. In this connection, I must inform the House that I am not in the least obstructing the business of the House. The rule is clear and I want to move the motion."

TEMPORARY CHAIRMAN :—" The hon. Member can move it after the election of Chairman is over."

SRI S. B. ADITYAN :—" As soon as the business for the day is over, the Chairman will say, ' I now adjourn the House ', and we will have to go. Also, there is the possibility that the newly elected Chairman when he occupies the Chair may say that under rule 44 any such motion asking for the leave of the House should be moved before the list of business is entered upon. Rules unfortunately do not say that such motions can be taken up after the conclusion of the business for the day, but they say it must be

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taken up before we enter upon the business for the day. This is an extraordinarily simple matter and it is quite in order. In this case, the business of the House is the election of the Chairman and therefore before we take up that business, I am moving my motion.''

* THE HON. SRI C. RAJAGOPALACHARI :—'' Mr. Chairman, Sir, usually it is not the custom to debate points of order on which it is for the Chairman or the Speaker to give a ruling but as the mover of the motion entered into a lengthy discussion, I only wish to say that the situation is extraordinary. The function of the Provisional Chairman and the Provisional Speaker cannot be simply interpreted in the literal terms of the rules which are made for a totally different purpose. The hon. Member will be at perfect liberty to make a motion of this nature as soon as the House is constituted in the ordinary form and if the Chairman allows it. The hon. Member who raised this point will kindly remember that the Address of His Excellency the Governor is posponed till after the election of the Speaker of the Assembly and the Chairman of the Council. If we were to interpret the rules in the manner in which the hon. Member has done, we ought to begin with the Governor's Address even now. That is not so. This motion is a substantive part of the ordinary business of a regularly constituted House, and he would be quite in order to raise such a motion after the Chairman has been elected and it will be for him to allow and to fix the time when the motion is to be taken up for discussion. I, therefore, submit that it would be entirely outside the spirit of the provisions of the Constitution constituting the Provisional Chairman for a particular purpose. Mere legal arguments to show that the Provisional Chairman can give a ruling on the point and the House can dispose of the matter, will not do, and it is commonsense that it is totally beyond our province to take up a motion of this kind before the House is properly constituted. With reference to the merits, I have to get reports from the officers concerned. I submit that the motion is out of order at the present moment.''

TEMPORARY CHAIRMAN :—'' The hon. Member has referred to the provisions of rule 43. Now, the question is when this motion is to be taken up. In my opinion, it could better be taken up after the election of the Chairman. After the election of the Chairman, the hon. Member is at liberty to press his motion. Now, we shall proceed with the election.''

DR. R. K. SHANMUKHAM CHETTY :—'' Does it mean that the Chairman has admitted the motion and that it will be taken up after the election of the Chairman? ''

TEMPORARY CHAIRMAN :—'' I have neither allowed the motion nor disallowed it.''

THE HON. SRI C. RAJAGOPALACHARI :—'' There is no question of admission now. The very question of asking for leave of the House should be taken up after the election of the Chairman.''